

STATE OF NORTH CAROLINA

**FILED**

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

COUNTY OF DURHAM

19-CVS-1736

2019 JUN 12 A 11:40

JOHN DAVID GUNTER, PATRICIA )  
HADDEN GUNTER, JOAN BECK HART, )  
JON P. HOFFMAN, BETTY RAY HOFFMAN )  
and VIRGINIA A. MEIHAUS, )

Plaintiffs, )

v. )

**STAY ORDER**

CITY OF DURHAM and RESEARCH )  
TRIANGLE REGIONAL PUBLIC )  
TRANSPORTATION AUTHORITY, D/B/A )  
GOTRIANGLE, )

Defendants. )

This Matter coming on before the undersigned Superior Court Judge Presiding in Durham County Civil Superior Court upon the Consent Motion For Stay agreed to by all parties to this action; it appearing to the Court that granting this Stay has a likelihood of resolving this case, and other good cause appearing

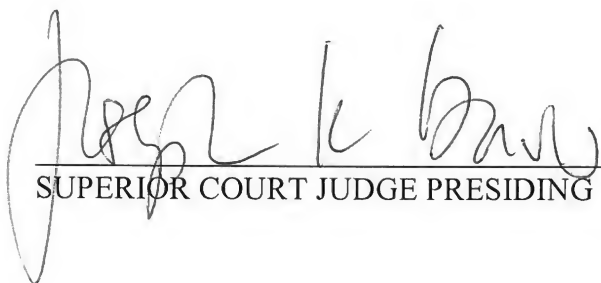
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. This case is stayed until November 19, 2019, except as provided below.
2. If the contemplated rezoning of the land assemblage to RS-M District (maximum allowable density of eight (8) units per acre, with a by-right density bonus of one (1) additional unit per acre if the requirements of Durham City-County Unified Development Ordinance ("UDO") § 6.3.3.B are met) and amendment to the Future Land Use Map for the assemblage to Low-Medium Density Residential (four (4) to eight (8) dwelling units per acre) are fully granted, then Plaintiffs will dismiss this action with prejudice within 76 days after such grant unless the

rezoning and Future Land Use Map amendment have been appealed and the appeal is still pending, and the parties shall bear their own costs.

3. If the above rezoning and amendment to the Future Land Use Map are denied or not fully granted, then the Defendants will have until 30 days after such denial, the failure to fully grant the rezoning and amendment, or November 19, 2019, whichever comes first, to answer or otherwise plead to Plaintiffs' Complaint, unless the parties jointly petition the Court for an extension of this stay or other relief.

This the 12<sup>th</sup> day of June, 2019.

  
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SUPERIOR COURT JUDGE PRESIDING

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

FILED

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
19-CVS-1736

2019 JUN 12 A 11:25  
JOHN DAVID GUNTER, PATRICIA  
HADDEN GUNTER, JOAN BECK HART  
JON P. HOFFMAN, BETTY RAY HOFFMAN  
and VIRGINIA A. MEIHAUS, BY                     

Plaintiffs,

v.

CITY OF DURHAM and RESEARCH  
TRIANGLE REGIONAL PUBLIC  
TRANSPORTATION AUTHORITY, D/B/A  
GOTRIANGLE,

Defendants.

**CONSENT MOTION FOR STAY**

Plaintiffs and Defendants, by counsel and with the consent of all parties, hereby move the Court to Stay this action until November 19, 2019, and respectfully show unto the Court that:

1. Defendant Research Triangle Regional Public Transportation Authority, d/b/a GoTriangle ("GoTriangle") owns an assemblage of land totaling 23.422 acres along the east side of Farrington Road in Durham, North Carolina.

2. In the spring of 2018, GoTriangle requested that the zoning map for this assemblage be amended from Residential Suburban – 20 to Industrial Light with a Development Plan. GoTriangle also requested that the Future Land Use Map be amended to designate this assemblage as Industrial instead of Commercial and Office.

3. GoTriangle at that time planned to use this assemblage for a Rail Operations Maintenance Facility for the Durham Orange Light Rail Transit project then being planned and designed.

4. On December 3, 2018, the City of Durham through its City Council granted GoTriangle's rezoning request and request to amend the Future Land Use Map as set forth above.

5. On January 31, 2019, Plaintiffs filed this action challenging the above rezoning and amendment to the Future Land Use Plan on several grounds.

6. In early April 2019, the Boards of Commissioners of Durham and Orange Counties and of GoTriangle determined that the Durham Orange Light Rail Transit project could not be funded and built, and thus canceled the project. GoTriangle thus no longer needs this assemblage for a Rail Operations Maintenance Facility.

7. The parties, by consent, have extended the time for Defendants to answer or otherwise plead to the Complaint in this action so that the parties could discuss, among other matters, a possible resolution of this matter.

8. The parties now believe that a stay of this action by consent is called for so that the City of Durham may initiate a rezoning request for GoTriangle's land assemblage to be rezoned to an RS-M District (maximum allowable density of eight (8) units per acre, with a by-right density bonus of one (1) additional unit per acre if the requirements of Durham City-County Unified Development Ordinance ("UDO") § 6.3.3.B are met) with an amendment to the Future Land Use Map to designate this assemblage as Low-Medium Density Residential (four (4) to eight (8) dwelling units per acre). The parties anticipate that the consideration of this rezoning request and amendment by the City of Durham will take approximately six (6) months. GoTriangle supports this rezoning request and amendment, and Plaintiffs also support this rezoning request and amendment.

9. Should the above rezoning request and amendment to the Future Land Use Map be granted by the City Council for the City of Durham, the parties agree that Plaintiffs will dismiss this action with prejudice within 76 days after the rezoning and amendment to the Future Land Use Map are granted unless the rezoning and Future Land Use Map amendment have been appealed and the appeal is still pending, and the parties shall bear their own costs.

10. If the rezoning and the amendment to the Future Land Use Map are denied or not fully granted on or before November 19, 2019, then this action will no longer be stayed, and Defendants will have until 30 days after the denial, the failure to fully grant the rezoning and the amendment, or November 19, 2019, whichever comes first, to answer or otherwise plead to Plaintiffs' Complaint, unless the parties jointly petition the Court for an extension of the stay or other relief.

WHEREFORE, Plaintiffs and Defendants, by counsel and with the consent of all parties, request that this matter be stayed to and through November 19, 2019. The parties further request that the Stay Order provide that if the above rezoning and amendment to the Future Land Use Map are fully granted, then Plaintiffs will dismiss this action with prejudice within 76 days after such granting unless the rezoning and Future Land Use Map amendment have been appealed and the appeal is still pending, and the parties shall bear their own costs. Further, the parties request that if the above rezoning and amendment are denied or not fully granted, then Defendants will have 30 days after the denial, the failure to fully grant the rezoning and amendment, or November 19, 2019, whichever comes first, to answer or otherwise plead, unless the parties jointly petition the Court for an extension of the stay or other relief.

This the 12<sup>th</sup> day of June, 2019.

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*Attorneys for Research Triangle Regional  
Public Transportation Authority, d/b/a  
GoTriangle*

All signatures by Donald T. O'Toole  
with the consent of the other  
parties. Donald O'Toole 6/12/19